



# Minnesota Pollution Control Agency

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January 17, 2003

Mr. Brian Hiti  
Acting Commissioner  
Iron Range Resources & Rehabilitation Agency  
PO Box 441  
1006 Highway 53 South  
Eveleth, MN 55734-0441

Dear Mr. Hiti:

As Chair of the Taconite Industry Cost Reduction Initiative's (TICRI) Environmental Permitting Committee, I am pleased to provide you with our first work product. In October, I was informed of the new committee membership, the reaffirmed goals and the action steps that had been identified at the TICRI portion of the August 2002 Mining Issues Retreat. The Committee had an initial meeting in November to reach a common understanding of our mission and goals. At this meeting we decided to first focus on ways to improve the efficiency and cost effectiveness of the environmental review and permitting processes for new mining projects and for changes to existing mining facilities while ensuring environmental protection and public participation.

Enclosed is an executive summary and prioritization briefly describing several opportunities for improvement of the environmental review and permitting processes. We have also recommended some possible strategies for consideration, identified issues, and suggested action parties for each opportunity. We have more detail available when you or other interested parties are ready.

It should be noted that most of the opportunities and possible strategies do not require regulatory changes. Implementation of any or all of the strategies could result in increased efficiency for the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources and the project proposer while protecting the environment and the public. One of the opportunities involves federal agencies so it may be helpful to get assistance from the Governor's Blue Ribbon Committee on Mining on that issue.

I want to publicly thank the committee for their hard work and dedication to this effort. Our work is not done. We will continue to meet on a regular basis to look for additional opportunities for administering environmental regulation and permitting in an expeditious and cost-effective manner while maintaining a goal of protecting the environment and the public.

Please contact me at (651) 296-7512 if you have any questions.

Sincerely

Ann Foss, Chair  
Environmental Permitting Committee  
Taconite Industry Cost Reduction Initiative

AMF:lao

Enclosure

**TACONITE INDUSTRY COST REDUCTION INITIATIVE  
COMMITTEE ON STREAMLINING ENVIRONMENTAL PERMITTING  
EXECUTIVE SUMMARY**

The Taconite Industry Cost Reduction Initiative was launched in the spring of 2001 to respond to the escalating challenges facing the taconite industry. The Minnesota Blue Ribbon Committee on Mining invited industry stakeholders to recommend ways to cut costs in Minnesota's iron mining industry and keep it competitive. The ultimate goal is to sustain and enhance the long-term viability of the state's taconite producers and the jobs they provide on the Iron Range and elsewhere in Minnesota. About 500 people from five sectors – including the mining workforce, the fee owners, the vendors and the community/government – have participated in the initiative's formal and informal dialogue since early 2001. This Committee on Streamlining Environmental Permitting resulted from this Initiative.

The mission of this Committee is to work with state environmental review and permitting agencies to identify and recommend ways to administer environmental permitting and regulations in a more speedy and cost effective manner. A sound system of environmental permitting and regulation is vital to maintaining the good quality of life in Minnesota. The implementation of these regulations must consider the costs in time and money to the taxpayers of Minnesota, owners of existing operations and proponents and financiers of new projects. This mission is germane to the taconite industry, to Minnesota's developing value-added ferrous and non-ferrous minerals industry and to other non-mineral major facility permitting as well.

The Committee recognized two areas of primary importance: *process issues* and *emerging technical issues*. Process improvements can produce savings in direct costs and time, savings that are important to both project sponsors and government agencies. Emerging technical issues are those currently identified for which the agencies and the industry must prepare in order to ensure protection of the environment while considering the economic and social costs associated with solutions the agencies may pursue. The Committee identified a number of points at which opportunities exist for improvement. We decided to focus on changes that would affect modifications of existing facilities or the design and permitting of new facilities.

We have briefly summarized and prioritized our work below. Along with each opportunity for streamlining, we have included some possible strategies that we have brainstormed. We realize that the action parties may not be able to take advantage of all the identified opportunities at once. We look forward to working with the action parties to further look into the strategies. The Committee will continue to work on other issues and inform you as we develop recommendations.

**Emerging Technical Issues:**

**Mercury and Total Maximum Daily Load (TMDL) Regulation:**

Opportunity: Currently most of Minnesota's lakes are listed as impaired by mercury, though an estimated 90 percent of the mercury comes from airborne sources outside of the state. The current regulatory approach of dealing with mercury is flawed, since it does not appropriately consider the contribution from air deposition and of naturally occurring mercury. The current listing of waters will require imposition of TMDL's, resulting in "no new or increased discharge" requirements and could effectively preclude new mining facilities or expansions unless prompt action is taken. The MPCA estimates that completing the TMDL "process" could cost between \$0.6 and \$3 billion. An opportunity exists to reduce the costs, administrative burdens and possible adverse effects on mineral and other major facilities development.

*Strategy:* Consider the following alternatives:

- a. Have MPCA request that the state's waters be re-listed under Category 4(b) which includes waters where other pollution control efforts are expected to result in the attainment of the water quality standard. A number of existing state and federal programs already underway form the basis for such an application.
- b. Have MPCA develop a statewide SPP for variances for individual dischargers similar to an U.S. Environmental Protection Agency (EPA) approved one for Ohio as part of the Great Lakes Initiative.
- c. Have MPCA, in cooperation with other stakeholders, develop a state-wide mercury NPDES permitting strategy.
- d. Have industry and MPCA continue to work together on this important issue.

*Issues:* EPA constraints.

*Action Parties:* MPCA, MN Chamber, MCEA.

### **Process Certainty Issues:**

#### **1. Designating Project Managers:**

*Opportunity:* Complex construction projects can involve multiple agencies. Also, multiple staff, supervisors, managers and division directors within one agency are responsible for various aspects of a project.

*Strategies:* Consider the following:

For each major project, each agency should appoint a single project manager who establishes internal priorities, designates and coordinates team members, directs decisions and resolves internal conflicts. The various agency project managers coordinate their activities through the Responsible Government Unit (RGU) project manager. For truly major projects of, say, \$100 million or more in capital costs, the Governor's office or the "mining cabinet" should consider designating an overall inter-agency project manager.

*Issues:* Implementation will require commitments of staff time at a high level within the agencies or the Executive Branch, although improved overall coordination and efficiency should result in a net savings to the agencies when viewing the entire permitting process.

*Action Parties:* Primary agencies, Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Natural Resources (DNR), Governor's office.

#### **2. Developing and Improving Standard Policy and Operating Procedures:**

*Opportunity:* Developing written Standard Policies and Procedures (SPPs) to improve, outline and organize an agency's review of various permit-related aspects of project proposals will save agency time and cost and provide like savings to project sponsors, giving them an early, detailed explanation of the agency's processes and expectations which must be met in a submittal.

*Strategies:* Consider the following:

The MPCA will develop SPPs for air permitting, air toxics, risk assessment, water quality permitting, air modeling and environmental review.

*Issues:* Implementation may require significant commitments of MPCA staff time to develop the SPPs to be offset by long term cost savings.

*Action Parties:* MPCA, primarily.

### 3. Scope Development and Data Collection:

*Opportunity:* Currently, much information required for environmental review and permitting is gathered by the project sponsor before starting the scoping Environmental Assessment Worksheet (EAW). The scoping EAW is the first opportunity for public input to determine what information should be reviewed in the Environmental Impact Statement (EIS). This may result in additional data collection requirements or potentially cause extensive time delays and additional costs.

*Strategies:* Consider the following:

- a. Have the project sponsor request the scoping EAW as soon as a project has reasonable overall definition. This will define the scope of data required early in the process. It will allow public input at an earlier stage than is currently done.
- b. Alternatively, well prior to the formal scoping EAW but after preliminary project introduction and explanation to the RGU, the RGU will meet with the project sponsor to develop a definitive list of data to be collected that will be needed for the EAW, with a binding agreement that no additional data will be needed for the EAW or EIS unless there is a major change in project scope.
- c. Have the RGU formally involve all concerned state and federal agencies in both the pre-scoping meetings and in the scoping EAW process.

*Issues:* The Environmental Quality Board rules as written require that the EIS commence within 45 days after the scoping EAW decision. In practice, it appears that this requirement cannot be met primarily for two reasons: (a) because of the time needed to identify and contract with a consultant after completion of the EAW and (b) because the EAW may determine that additional data is needed for the EIS. Perhaps the 45 day rule should be removed because it is not practical, however, expedience in progressing from the EAW to the EIS is very important. A shift in regulations during the data collection process could result in collecting data not envisioned as necessary at the time the binding agreement was entered. A major change in project scope by the sponsor may require revision of the binding agreement on data needed. The ultimate scope of the EIS will be better and earlier defined with expected significant later cost savings in consulting costs associated with the EIS preparation and with less likelihood of delay in project implementation and realization of project benefits.

*Action Parties:* MPCA, DNR, EQB (for rule change), project sponsors.

### 4. 4. Improving the Final Decision Making Process:

*Opportunity:* The current practice results in multiple documents being "public-noticed" at different times. This can result in confusion for commentators since they are forced to look at the project in pieces rather than as a whole. This can also result in some inefficiencies for the agencies, delays for the project sponsor, and added costs for both.

*Strategies:* Consider the following:

- a. Develop a DNR/MPCA Memorandum of Understanding (MOU) to clearly reflect the intent to hold coordinated public noticing of all agency documents for each project. Also have the agencies coordinate public hearings when it would be more efficient.
- b. Request the legislature to consider a bonding requirement for legal challenges to final agency decisions when such challenges would delay project execution or increase project costs.

*Issues:* Establishing a bonding requirement associated with a challenge to agency decisions is likely to be contentious.

*Action Parties:* MPCA and DNR, the Legislature.

5. Coordination Among Agencies:

*Opportunity:* Large minerals projects have regulatory oversight by federal agencies as well as the state agencies. There are many opportunities to make this process more efficient for both the state and federal agencies. This would also result in less confusion on the part of commentators and expedite the process for project sponsors.

*Strategies:* Consider the following:

- a. DNR and MPCA will develop MOUs with major federal agencies: Corps of Engineers (COE), Forest Service (FS), Federal Land Managers (FLM), Federal Wildlife Service (FWS) and National Park Service (NPS). One aspect of these MOUs would be an agreement to have a single EIS for a project with a satisfactory coordinated completion schedule. Ultimate decision-making in specific permit areas would remain with each agency but be coordinated by the state RGU consistent with the MOU.
- b. Urge federal agencies to participate in both the pre-scoping meetings with the project sponsor and in the scoping EAW.

*Issues:* Federal agencies may be reluctant or legally unable, under current federal laws and regulations, to enter into such cooperative binding agreements.

*Action Parties:* MPCA and DNR, Blue Ribbon Committee and MN Congressional delegation.

6. Consultant Selection:

*Opportunity:* Reduction of the time, effort, and expense currently required by the DNR and the MPCA to select consultants to assist in environmental review and permitting.

*Strategies:* Consider the following:

- a. Have the project sponsor assist the agencies to identify a list of several qualified consultants from which the agency can choose its consultant.
- b. Have the agencies create and maintain an active list of pre-qualified consultants.
- c. Encourage project sponsors to alert qualified consultants of upcoming agency requests for proposals so they will solicit the interest of agencies and provide information to the agencies to verify their qualifications.

*Issues:* A review is needed of contracting procedures permitted by the Department of Administration. A better definition of project scope (issue 2) will assist in selection and contracting process.

*Action Parties:* MPCA and DNR, industry and trade associations, project sponsors.

### Committee Members

Ms. Ann Foss, Chair  
Minnesota Pollution Control Agency  
St. Paul, MN

Mr. George Pruchnofski  
Barr Engineering Company  
Minneapolis, MN

Ms. LaTisha Gietzen  
National Steel Pellet Company  
Keewatin, MN

Mr. Denny Wagner  
Northshore Mining Company  
Silver Bay, MN

Mr. R D. Learmont  
Minerals/Mining Consultant  
Warba, MN

Mr. Chuck Willaims  
Chuck Williams & Associates  
Duluth, MN

Mr. Ernest K. Lehmann  
Minnesota Exploration Association  
Minneapolis, MN

Mr. Larry Lehtinen  
Mesabi Nugget LLC  
Silver Bay MN

Mr. Arlo Knoll  
Minnesota Department of Natural Resources  
Hibbing, MN